CLAT PG Law of Torts

Sample Paper – 4

Duration: 40 Minutes **Maximum Marks: 40**

Instructions

- This paper contains **40** Multiple Choice Questions (Single Correct Answer), modelled on the Law of Torts portion of **CLAT PG** entrance.
- Each correct answer carries **+1 mark**. There is **a negative marking of** $-\frac{1}{4}$ **mark** for each incorrect answer. Unattempted questions carry no penalty.
- Only **one** option is correct. Choose carefully.
- Syllabus: General Principles of Tort, Defences, Negligence, Strict & Absolute Liability, Vicarious Liability, Defamation, Nuisance, Trespass, Motor Vehicles Act 1988, Consumer Protection Act 2019.
- Use of mobile phones, calculators, or electronic gadgets is strictly prohibited.

Q1. Ravi suffered property damage when his neighbour's boundary wall collapsed onto his car. Ravi's brother, Suresh, who witnessed the incident and was emotionally distressed but sustained no property damage himself, filed a separate tortious claim against the neighbour. The neighbour raised a preliminary objection. Which of the following correctly states the legal position regarding Suresh's standing to sue?

(A) Suresh has no locus standi as he suffered no actionable damage to his person or property; only those who sustain direct loss from a tort have title to sue.

(B) Suresh can sue because witnessing a tort and suffering emotional distress is always sufficient to confer standing under common law.

(C) Suresh can sue jointly with Ravi since both were present at the scene and the damage to the wall is a single indivisible act.

(D) Suresh can sue as a beneficiary under the principle that family members of victims of torts automatically inherit the right of action.

Q2. Meena filed a suit for defamation against a newspaper publisher. While the suit was pending, Meena died. Her legal heirs sought to continue the action. The newspaper publisher contended that personal tort actions die with the person and cannot be continued by heirs. Which of the following most accurately reflects the current legal position on the survival of tort actions?

(A) Personal tort actions always abate on death; no statute has changed this common law rule in India.

(B) Only property-based tort claims survive the death of a party; defamation as a purely personal tort is permanently extinguished.

(C) Under law reform principles, most causes of action in tort survive for or against the estate of a deceased person, though certain heads such as exemplary damages may not be recoverable by the estate.

(D) Death of the plaintiff automatically converts the tort claim into a breach of contract claim that the heirs may pursue.

Q3. A factory negligently discharged chemicals into a river. A downstream farmer, whose water intake was known to the factory, suffered crop loss. Additionally, an unrelated fisherman twenty miles away suffered unexpected loss because the chemicals killed a rare fish species that only he harvested commercially. The factory accepts liability to the farmer but contests liability to the fisherman. Which of the following best contrasts the *direct consequence test* and the *foreseeability test* in determining the factory's liability to the fisherman?

(A) Under both tests the factory is liable since the chemical discharge was intentional and covered all downstream consequences.

(B) Under the direct consequence test (*Re Polemis*) the factory would be liable for all direct consequences regardless of foreseeability, while under the foreseeability test (*Wagon Mound No. 1*) liability is confined to consequences of a type that were reasonably foreseeable; thus the fisherman's claim would fail under the latter test.

(C) Both tests yield identical results and the distinction between them is purely academic without practical difference.

(D) The foreseeability test is stricter and would impose greater liability on the factory than the direct consequence test.

Q4. A patient underwent surgery in January 2018. Unknown to her, the surgeon left a surgical sponge inside her abdomen. The patient experienced chronic pain but received no diagnosis until March 2022, when an MRI confirmed the sponge's presence. She filed a suit in December 2022. The defendant surgeon pleaded limitation, arguing the cause of action accrued in January 2018. Which of the following best states when a cause of action in tort typically accrues for limitation purposes?

(A) A cause of action accrues only when the plaintiff becomes subjectively aware of the damage, regardless of when the injury was objectively discoverable.

(B) A cause of action accrues at the moment the tortious act is committed, even if the plaintiff cannot possibly have known of the damage.

(C) A cause of action accrues when the defendant's tortious act causes damage to property but not to the person.

(D) A cause of action accrues when all essential elements of the tort are complete, which in cases of latent damage may trigger special rules extending time from the date of discoverability of the damage.

Q5. Anand lent money to a company whose directors deliberately concealed material facts about the company's insolvency. Anand discovered the fraud only five years after the limitation period had ordinarily expired. He filed a suit claiming that the limitation period should be extended due to the fraud. Which of the following correctly states the effect of fraud or deliberate concealment on limitation periods in tort law?

(A) Where the defendant has fraudulently concealed the plaintiff's right of action, the limitation period does not begin to run until the plaintiff discovers, or could with reasonable diligence have discovered, the concealment; thus Anand's suit may still be within time.

(B) Fraud by the defendant has no effect on limitation periods because equity and law are merged and limitation runs from the act of fraud itself.

(C) Limitation periods in tort are absolute and cannot be extended on any ground including fraud or mistake.

(D) Only courts of equity can extend limitation periods for fraud; common law courts have no such jurisdiction.

Q6. Kiran and Shyam were engaged in an illegal street race when Shyam negligently lost control and collided with Kiran's vehicle, injuring Kiran. Shyam pleaded the defence of *ex turpi causa non oritur actio* (illegality) to defeat Kiran's negligence claim entirely. Which of the following best states how illegality operates as a defence in modern tort law?

(A) Illegality operates as an absolute defence and completely bars any tortious recovery whenever the plaintiff was engaged in any illegal activity at the time of injury.

(B) Illegality is not a recognised defence in tort law; a defendant must rely solely on contributory negligence.

(C) Illegality as a defence operates contextually; courts examine whether allowing recovery would be an affront to public conscience, and where the plaintiff's illegality is sufficiently connected to the damage, recovery may be barred or reduced, but the defence does not automatically bar all claims merely because the plaintiff was engaged in some illegality.

(D) A plaintiff engaged in illegal activity forfeits all rights in tort but retains full contractual rights against the same defendant.

Q7. Vijay's employer dismissed him in breach of his employment contract and also published a false statement that Vijay had embezzled company funds, constituting a criminal act of defamation. Vijay wishes to understand the conceptual distinctions among his potential claims. Which of the following correctly articulates the fundamental differences among a tort, a crime, and a breach of contract?

(A) Torts and crimes are the same because both are wrongs against society; breach of contract differs only in that it involves private parties.

(B) A tort is a civil wrong giving the injured party a right to damages in a civil court; a crime is a public wrong prosecuted by the state primarily to punish the wrongdoer; and a breach of contract is a civil wrong arising from a pre-existing consensual obligation, with remedies focused on expectation or reliance rather than punishment.

(C) A breach of contract always results in criminal liability if the loss exceeds a prescribed monetary threshold.

(D) The distinction between tort and breach of contract is irrelevant once the same act gives rise to both; only the criminal prosecution can then proceed.

Q8. A firm of solicitors advised their client, Mrs Patel, on a property transaction. The solicitors negligently failed to discover a prior encumbrance, causing Mrs Patel financial loss. The solicitor–client relationship was governed by a retainer (contract). Mrs Patel wished to sue both in contract for breach of duty and in tort for negligence. The solicitors argued that the existence of a contract precluded any tortious claim. Which of the following correctly states the law on concurrent liability?

(A) A plaintiff can only sue in contract if the parties have a contractual relationship; a tortious claim is unavailable once a contract exists.

(B) Tortious liability is automatically subsumed into contractual liability when both arise from the same facts; the plaintiff must choose one cause of action.

(C) Concurrent liability exists only where there is express provision in the contract authorising a tortious claim.

(D) As affirmed in *Henderson v Merrett Syndicates Ltd* [1994], a plaintiff may pursue concurrent remedies in both tort and contract arising from the same conduct; the existence of a contract does not per se extinguish the tortious duty of care, provided the tortious duty is not inconsistent with the contract.

Q9. During a routine appendectomy, the patient suffered a severed ureter, an injury unconnected to the surgical site. The patient invoked *res ipsa loquitur* to raise an inference of negligence. The surgeon produced detailed contemporaneous records showing that the injury occurred because the patient had an undisclosed and undetectable anatomical anomaly placing the ureter in an atypical position. Which of the following correctly states the effect of the surgeon's evidence on the application of *res ipsa loquitur*?

(A) Where the defendant provides a specific and plausible explanation of how the accident could have occurred without negligence, the inference raised by *res ipsa loquitur* is rebutted and the evidential burden reverts to the plaintiff to prove negligence affirmatively.

(B) Once *res ipsa loquitur* is invoked, the defendant can never rebut the inference and is conclusively presumed negligent.

(C) *Res ipsa loquitur* creates an irrebuttable presumption of negligence in all surgical cases.

(D) The defendant's explanation is irrelevant once the doctrine is invoked; the court must find negligence.

Q10. Priya was injured in a road accident caused primarily by a reckless bus driver. However, Priya was not wearing a seatbelt, and medical evidence showed that wearing one would have reduced her injuries by 30%. The bus operator pleaded contributory negligence. Which of the following correctly states the modern legal effect of contributory negligence as a defence?

(A) Contributory negligence is a complete defence; if the plaintiff contributed to the accident in any degree, she recovers nothing.

(B) Contributory negligence is irrelevant where the defendant's conduct was the proximate cause of the accident.

(C) Under apportionment legislation, contributory negligence operates as a partial defence; the plaintiff's damages are reduced in proportion to her share of responsibility, so Priya would recover 70% of her full damages reflecting the seatbelt deduction.

(D) Contributory negligence can only be pleaded if the plaintiff was more than 50% responsible for the accident.

Q11. A factory worker, Ramesh, was exposed to silica dust from two separate machines throughout his employment. Machine A was operated negligently; Machine B was operated safely. Ramesh developed pneumoconiosis. Medical evidence could not identify which machine's dust caused the disease; it was established that both contributed to the cumulative exposure. Ramesh sued his employer for Machine A's contribution. Which of the following most accurately reflects the legal basis for establishing causation in such circumstances?

(A) Ramesh must fail because he cannot identify the precise machine whose dust was the but-for cause of his disease.

(B) Under the *material contribution* test established in *Bonnington Castings v Wardlaw* [1956], where the negligent source materially contributed to the overall exposure that caused the disease, causation is established even if the precise causal contribution cannot be separately quantified; Ramesh succeeds.

(C) Causation in cumulative disease cases is determined solely by identifying the employer with the longest period of negligent exposure.

(D) The material contribution test applies only to mesothelioma and not to other occupational diseases such as pneumoconiosis.

Q12. A construction company provided its workers with scaffolding but failed to institute any system for regular safety inspections. A scaffold plank gave way and a worker, Mohan, fell and was injured. The company argued that it had supplied equipment and left safety to the site foreman's discretion. Which of the following correctly identifies the scope of an employer's non-delegable duty regarding a safe system of work?

(A) An employer fulfils its duty by providing appropriate equipment; supervision and inspection are optional extras not required by law.

(B) The employer's duty of care is discharged entirely once the work is delegated to a competent supervisor.

(C) An employer owes a duty only to ensure the workplace premises are structurally sound; equipment safety is a matter for the supplier.

(D) An employer owes a non-delegable duty to establish and maintain a safe system of work, which includes providing proper equipment, instituting systematic safety inspections, and giving adequate instructions; delegation of supervision to a foreman does not discharge this duty, and the employer is liable for Mohan's injuries.

Q13. Geeta was walking on the pavement alongside a road. A car driven by Hemant at excessive speed skidded due to wet road conditions, mounted the pavement, and struck Geeta. Hemant argued that Geeta, by walking on a public pavement, voluntarily assumed the risk of errant vehicles. Which of the following correctly states the applicable duty and the validity of the *volenti non fit injuria* defence in this context?

(A) A driver owes a duty of care to pedestrians on footpaths; the defence of *volenti* is inapplicable because a pedestrian on a designated pavement does not voluntarily assume the risk of a negligently driven vehicle mounting the pavement.

(B) A driver's duty of care extends only to other road users and not to persons on the pavement, who are outside the zone of foreseeable danger.

(C) *Volenti* succeeds because road users and pedestrians share the same risk by being near a road.

(D) The defence of *volenti* is available whenever the plaintiff is in a public place adjacent to a road at the time of injury.

Q14. During a major disaster at a stadium, 200 spectators were injured. Dinesh, a secondary victim who was watching the event on live television at his home, suffered severe post-traumatic stress disorder upon seeing his friend injured on screen. Dinesh filed a claim for negligently inflicted psychiatric injury. Which of the following correctly states the control mechanisms applicable to secondary victims of psychiatric injury as established in *Alcock v Chief Constable of South Yorkshire Police* [1991]?

(A) Secondary victims need not satisfy any control mechanism; proof of a recognised psychiatric illness caused by the defendant's breach is sufficient.

(B) A secondary victim succeeds if she witnessed the accident on live television, provided she suffered a recognised psychiatric illness.

(C) Secondary victims must satisfy the *Alcock* control mechanisms: close ties of love and affection with the primary victim, proximity in time and space to the accident or its immediate aftermath, and perception through unaided senses; watching via live television does not ordinarily satisfy the proximity/perception requirement, so Dinesh's claim is likely to fail.

(D) Psychiatric injury claims are restricted to primary victims who were within the physical zone of danger.

Q15. Arun gave a negligent reference for his former employee, Prem, to a prospective employer. The reference was so damaging that Prem could not find employment in his field. Prem sued Arun in tort for economic loss caused by the negligent reference. Which of the following correctly identifies the tortious basis of Arun's liability?

(A) No tortious duty exists for references; the only remedy for a false reference is defamation.

(B) The House of Lords in *Spring v Guardian Assurance plc* [1994] held that an employer who gives a negligent reference owes a duty of care in tort to the subject of the reference based on the assumption of responsibility principle extended from *Hedley Byrne*; Arun is liable for the economic loss caused to Prem.

(C) The duty of care for references is owed solely to the recipient of the reference, not to its subject; Prem has no tortious claim.

(D) An action for a negligent reference can only succeed in contract if a fee was paid for the reference.

Q16. A chemical tanker owned by PetroMax overturned on a highway due to negligent loading. A bystander, Sunil, without any professional obligation, rushed to help injured passengers and was himself burned by leaking chemicals. Sunil sued PetroMax in negligence. PetroMax contended that it owed no duty to a volunteer rescuer who had exposed himself to danger voluntarily. Which of the following correctly states the duty owed to a rescuer?

(A) No duty of care is owed to a volunteer rescuer because rescuers are treated as trespassers to the emergency scene.

(B) A duty of care is owed only to professional rescuers such as firefighters or paramedics; volunteer rescuers assume the risk of injury.

(C) A volunteer rescuer is considered a secondary victim and must satisfy the *Alcock* control mechanisms before recovering.

(D) A defendant who negligently creates a dangerous situation owes a duty of care to a rescuer who is injured in the course of a reasonable rescue attempt; the rescuer is not treated as having voluntarily assumed the risk merely by intervening, and PetroMax is liable to Sunil.

Q17. Govind stored large quantities of water in an overhead tank on the top floor of his multi-storeyed building. An unknown third party secretly opened a valve, causing water to flood and damage Seema's flat on the floor below. Seema sued Govind under the rule in *Rylands v Fletcher*.

Govind pleaded act of a stranger as a defence. Which of the following correctly identifies the principle established in *Rickards v Lothian* [1913] regarding the Rylands rule?

(A) The rule in *Rylands v Fletcher* does not apply where the escape is caused by the deliberate act of a stranger over whom the defendant had no control; the act of a stranger is a recognised defence to Rylands liability, and Govind would not be liable to Seema.

(B) The rule in *Rylands v Fletcher* is a principle of absolute liability admitting no defences; Govind is liable regardless of the stranger's intervention.

(C) The act of a stranger is a defence only if the stranger was an employee of the defendant.

(D) The rule in *Rylands v Fletcher* applies only to escape of fire and not to water.

Q18. A private gas bottling company stored high-pressure LPG cylinders in a densely populated residential area. Due to a manufacturing defect in one cylinder that could not have been detected with reasonable care, the cylinder exploded, killing two residents and damaging surrounding properties. The company argued it had exercised all reasonable care. Which of the following most accurately states the principle that determines the company's liability?

(A) The company is not liable because the manufacturing defect was latent and the company was not negligent.

(B) The company is liable only if it had actual knowledge of the defect in the specific cylinder.

(C) Under the principle of strict liability as stated in *Rylands v Fletcher*, and extended towards absolute liability for inherently dangerous activities, a party who stores non-natural and inherently dangerous materials such as high-pressure LPG in a residential area is liable for escape-related damage regardless of reasonable care; the manufacturing defect defence is unlikely to succeed.

(D) Gas storage is governed exclusively by statute; common law principles of strict or absolute liability have no application.

Q19. In a landmark Indian case, a multinational corporation's pesticide plant leaked methyl isocyanate gas in a densely populated city, causing mass casualties. The Supreme Court of India was called upon to determine the standard of liability applicable to enterprises engaged in inherently hazardous activities. Which of the following best describes the rule evolved by the Supreme Court in *M.C. Mehta v Union of India* (Oleum Gas Leak case) and its relationship to the Bhopal Gas disaster context?

(A) The Supreme Court adopted the traditional *Rylands v Fletcher* rule without modification, permitting the enterprise to plead available common law defences.

(B) The Supreme Court in *M.C. Mehta v Union of India* [1987] evolved a rule of absolute liability, holding that an enterprise engaged in a hazardous or inherently dangerous activity is absolutely liable for harm caused, without the benefit of any exceptions or defences available under *Rylands v Fletcher*; the quantum of damages must also reflect the enterprise's capacity to pay, effectively superseding strict liability.

(C) The Bhopal Gas case was decided exclusively on criminal negligence principles; civil absolute liability was not considered.

(D) The Supreme Court held that foreign corporations engaged in hazardous activities are exempt from Indian absolute liability rules.

Q20. A water reservoir maintained by a municipal corporation burst, flooding surrounding farmlands. Investigation revealed that the breach was caused by a stranger who had sabotaged the embankment. The farmers sued the corporation under strict liability. The corporation pleaded the act of a stranger. Which of the following correctly identifies the defences available under the *Rylands v Fletcher* rule in contrast to the Indian absolute liability rule?

(A) The act of a stranger is not a recognised defence under *Rylands v*

Fletcher; it applies only under the absolute liability rule.

(B) Strict liability under *Rylands v Fletcher* admits no defences whatsoever.

(C) Both strict liability and absolute liability under Indian law admit the same defences, including act of stranger, act of God, and consent.

(D) The act of a stranger is a recognised defence under the *Rylands v Fletcher* strict liability rule; however, under the Indian absolute liability rule from *M.C. Mehta*, no such defence is available, reflecting the fundamental distinction between the two standards.

Q21. Following a toxic gas leak from a chemical plant, the Supreme Court was asked to determine the appropriate quantum of damages payable to victims under the absolute liability principle. The company argued that damages should be restricted to the actual loss suffered by individual victims. Which of the following most accurately reflects the Supreme Court's approach to quantum of damages under the absolute liability rule established in *M.C. Mehta v Union of India*?

(A) Under absolute liability, the damages awarded must be commensurate with the magnitude of the enterprise's hazardous activity and its financial capacity; the greater the enterprise's resources and the hazard involved, the larger the damages, going beyond mere compensatory principles to ensure adequate deterrence.

(B) Quantum of damages under absolute liability is limited to direct out-of-pocket losses proven by individual claimants.

(C) The Supreme Court held that symbolic damages are sufficient under absolute liability since the primary purpose is deterrence and not compensation.

(D) Quantum of damages under absolute liability is determined by a statutory formula; courts have no discretion to vary the amount.

Q22. Rajesh, a delivery driver employed by QuickShip Ltd, was instructed to deliver parcels to three specified locations. After completing one delivery, Rajesh drove 25 km in the opposite direction to visit a friend, was involved in an accident, and then returned to complete his remaining deliveries. The accident victim sued QuickShip Ltd vicariously. Which of the following correctly states whether Rajesh was acting in the course of employment at the time of the accident?

(A) A driver is always in the course of employment whenever he is in the employer's vehicle, regardless of the purpose of the journey.

(B) An employer is vicariously liable for any accident involving its employee's vehicle during working hours, irrespective of the employee's purpose.

(C) Where an employee makes a substantial deviation from his authorised route for an entirely personal purpose, he is on a *frolic of his own*; the employer is not vicariously liable for accidents occurring during such deviation, and QuickShip is not liable for Rajesh's accident 25 km off-route to visit a friend.

(D) Vicarious liability in road accident cases is governed solely by the Motor Vehicles Act and not by common law employment principles.

Q23. A firm of solicitors, while acting for a vendor in a property sale, negligently released the purchase price to the vendor before registration of title was completed, causing the purchaser to suffer financial loss when the title turned out to be defective. The purchaser, who had no direct retainer with the solicitor's firm, sued the firm in tort. Which of the following best states the basis on which a solicitor may owe a duty of care to a third party who is not their client?

(A) A solicitor owes a duty of care exclusively to the client under the retainer; third parties have no tortious claim against solicitors.

(B) Under the principle of assumption of responsibility, a solicitor may owe a duty of care to a third party where it is foreseeable that the third party will rely on the solicitor's conduct and the solicitor has effectively assumed responsibility towards that party, as recognised in *White v Jones* [1995]; the purchaser's claim against the solicitors may therefore succeed.

(C) A solicitor's liability to third parties arises only under statute, not at common law.

(D) Solicitors are vicariously liable through their professional indemnity insurers; direct claims by third parties do not succeed.

Q24. Alpha Holdings Ltd is the parent company of Beta Chemicals Ltd. Beta Chemicals' factory caused an environmental disaster injuring local residents. Alpha Holdings Ltd exercised close control over Beta's day-to-day operations, set safety standards, and had approved the specific process that caused the leak. The claimants sought to hold Alpha Holdings vicariously or directly liable. Which of the following correctly states when a parent company may be held liable for a subsidiary's tortious acts?

(A) A parent company is automatically liable for all torts committed by its subsidiary because together they form a single economic unit.

(B) A parent company can never be liable for its subsidiary's torts; the separate legal personality of companies is inviolable under all circumstances.

(C) A parent company is liable only if it is a party to the employment contract of the subsidiary's employee who committed the tort.

(D) A parent company may be held directly liable in negligence where it exercised such degree of control over the subsidiary's operations and assumed a duty of care towards those affected by the subsidiary's activities, as recognised in *Chandler v Cape plc* [2012]; given Alpha's direct operational control and safety-standard setting, it may be directly liable to the claimants.

Q25. A patient, Mr Das, was admitted to St. Healing Hospital for cardiac surgery. The surgery was performed by Dr Kapoor, a senior cardiac surgeon engaged by the hospital as an independent contractor rather than an employee. Dr Kapoor's negligence during surgery resulted in Mr Das suffering a permanent disability. St. Healing Hospital argued that since

Dr Kapoor was an independent contractor, the hospital bore no liability. Which of the following most accurately reflects the modern rule on hospital liability for the acts of independent medical practitioners?

(A) Modern courts hold that hospitals owe a non-delegable duty of care to their patients; this duty cannot be discharged by entrusting treatment to an independent contractor, and the hospital is liable for Dr Kapoor's negligence even though he was not an employee.

(B) A hospital is liable only for the acts of directly employed staff; independent contractors are entirely outside the scope of hospital liability.

(C) Hospitals are liable for independent surgeons only if the surgeon was visibly incompetent and the hospital failed to vet credentials.

(D) The hospital is liable only if Mr Das can show he reasonably believed Dr Kapoor was an employee.

Q26. Ratan was employed as a care worker at a residential home for vulnerable adults. During his duties, Ratan sexually assaulted a resident. The employer had conducted proper background checks and had no specific knowledge of Ratan's propensity. The victim sued the employer vicariously. Which of the following correctly states the test applied to determine vicarious liability for intentional criminal acts of an employee?

(A) An employer is never vicariously liable for an employee's criminal act; criminal acts are outside the scope of employment by definition.

(B) Vicarious liability for criminal acts of an employee requires proof that the employer had actual knowledge of the employee's criminal tendencies.

(C) Under the *close connection* test established in *Lister v Hesley Hall Ltd* [2001], an employer may be vicariously liable for an employee's deliberate or criminal act where there is a sufficiently close connection between the employee's duties and the wrongful act; employing Ratan to care for vulnerable residents created that connection, making the employer vicariously liable.

(D) An employer is vicariously liable for an employee's criminal act only if it was committed on the employer's premises during contracted working hours.

Q27. PrintFast Ltd operates a book distribution service. It distributed copies of a novel that contained a defamatory passage about a well-known businesswoman. PrintFast had no knowledge that the book contained defamatory content and took no part in the authorship or editing of the book. The businesswoman sued PrintFast for defamation. Which of the following correctly states the defence available to a secondary publisher such as a distributor?

(A) A distributor is as liable as the author and publisher for defamation since circulation of defamatory material is itself the tort.

(B) A secondary publisher such as a distributor may rely on the defence of innocent dissemination; the defence is available where the distributor had no knowledge of the libellous nature of the content, took no part in producing it, and the absence of knowledge was not due to negligence; PrintFast may successfully raise this defence.

(C) Defamation liability is strict and applies equally to all parties in the distribution chain regardless of knowledge.

(D) The defence of innocent dissemination is available only to internet service providers and not to physical distributors.

Q28. A satirical magazine published a fictional story about an unscrupulous lawyer named "Justice Ramprasad." Unknown to the author, a real lawyer named Ramprasad Sharma existed and practised in the same city. Readers who knew Sharma believed the story referred to him. Sharma sued for defamation. The defendant argued that the story was entirely fictional and not intended to refer to Sharma. Which of the following correctly states the identification test in defamation law?

(A) Defamation requires proof that the defendant subjectively intended to refer to the plaintiff; absence of intent is a complete defence.

(B) A fictional story can never constitute defamation because fiction is understood as non-factual by all reasonable readers.

(C) Defamation requires that the plaintiff be named explicitly in the publication; an indirect or coincidental resemblance is insufficient.

(D) Under the principle in *Hulton & Co v Jones* [1910], it is sufficient for defamation that reasonable persons who knew the plaintiff understood the publication to refer to him; the defendant's intention or lack of awareness of the plaintiff's existence is irrelevant to liability, so Sharma's claim may succeed.

Q29. An editorial in a national newspaper stated that "all members of the City Bar Association are corrupt and routinely take bribes from clients." The City Bar Association had approximately 3,000 members. One individual member, Advocate Neha Joshi, sought to sue for defamation, arguing that the statement referred to each member individually. Which of the following correctly states the rule on group defamation?

(A) Where a defamatory statement refers to every member of a large, unspecified class, an individual member cannot sue unless the group is small and sufficiently identifiable so that the statement may be understood as referring specifically to that individual; a class of 3,000 is too large and Advocate Joshi's claim will likely fail.

(B) Any member of any group defamed in a publication may always sue individually; group size is irrelevant.

(C) Group defamation is not actionable at all; only identifiable natural persons can bring a defamation suit.

(D) Where the statement uses the word "all," each member automatically has an individual cause of action regardless of group size.

Q30. The Daily Herald published a detailed investigative report alleging that a senior government minister had accepted improper payments from a defence contractor. The report was based on documents from a whistleblower, corroborated by two independent sources. The minister sued for defamation. The newspaper relied on qualified privilege. Which of the following correctly states the *Reynolds* qualified privilege defence in defamation?

(A) Publication of any defamatory statement about a public official is protected by absolute privilege in the public interest.

(B) Qualified privilege in defamation is available only where the plaintiff consented to publication.

(C) The *Reynolds* privilege (responsible journalism on matters of public interest) protects a publisher where the publication concerned a matter of public interest and the steps taken to gather and publish the information were responsible and fair, having regard to factors such as the seriousness of the allegation, verification of sources, and whether comment was sought from the claimant; the Herald's thorough, source-verified investigative report may attract this privilege.

(D) Qualified privilege is unavailable where the defendant is a commercial newspaper earning profit from publication.

Q31. A neighbouring factory emitted noxious fumes that made the homes in a residential locality unpleasant and caused discomfort to all occupants. The homeowners brought an action in private nuisance. A university student, Priti, who was renting a single room in one of the houses as a lodger without any tenancy agreement, also sought to join the claim. Which of the following correctly states who has the right to sue in private nuisance?

(A) Anyone physically present in the affected area at the time of the nuisance may sue in private nuisance, regardless of their legal interest in the property.

(B) Under the principle established in *Hunter v Canary Wharf Ltd* [1997], the right to sue in private nuisance is restricted to those with a legal interest in the land affected — such as owners or tenants — and does not extend to lodgers or other occupiers lacking a proprietary interest; Priti cannot sue.

(C) Only the owner of the land can sue in private nuisance; tenants have no locus standi.

(D) A student occupying residential premises always acquires a sufficient interest to sue in nuisance by virtue of the residential use of the premises.

Q32. Large oak trees growing on Sanjay's land extended their roots under the boundary, cracking the foundations of his neighbour Kavita's house. Kavita notified Sanjay of the damage. Sanjay argued that he did not plant the trees, they were there when he purchased the land, and he had taken no active step to cause the encroachment. Which of the following correctly states an occupier's liability for naturally occurring nuisances encroaching from their land?

(A) An occupier is only responsible for nuisances caused by structures or activities that the occupier affirmatively created; naturally occurring features carry no liability.

(B) An occupier has no duty to prevent encroachment by natural vegetation that was present before the occupier's ownership.

(C) Liability for tree root encroachment arises only under the specific tort of trespass to land, not nuisance.

(D) Following *Leakey v National Trust* [1980], an occupier owes a measured duty of care in respect of naturally occurring hazards on their land that they know or ought to know may cause damage to neighbours; once notified, Sanjay's failure to take reasonable steps to prevent further root damage constitutes a nuisance, and he is liable to Kavita.

Q33. A paper mill located near a village had been releasing effluents into a stream for over two decades, causing continuing damage to the downstream farmlands. The farmers sought a permanent injunction to shut down the mill's effluent discharge. The mill argued that damages were an adequate remedy and sought to pay compensation instead of complying with an injunction. Which of the following correctly states the approach courts take in choosing between an injunction and damages as remedies for nuisance?

(A) In nuisance, injunction is the primary remedy as of right; the court must grant it whenever a nuisance is established, regardless of economic consequences or the adequacy of damages.

(B) Courts invariably prefer awarding damages over injunctions in nuisance cases to avoid disrupting commercial operations.

(C) An injunction is unavailable for nuisance; courts can only award past damages and issue advisory orders.

(D) An injunction is available as a discretionary remedy in nuisance, and courts weigh factors such as the adequacy of damages, proportionality, the ongoing nature of the nuisance, and the public interest; for a continuing nuisance causing persistent harm, a court may grant an injunction even if it causes economic hardship to the defendant, although in some cases damages in lieu under the *Shelfer* criteria may be awarded.

Q34. Inspector Nair initiated a criminal prosecution against businesswoman Farida for fraud, knowing the allegations to be baseless, as he bore a personal grudge against her. The prosecution ended when the magistrate discharged Farida at the committal stage, finding no prima facie case. Farida sued Inspector Nair for malicious prosecution. Which of the following correctly identifies all the essential elements that Farida must establish?

(A) Farida must prove only that Inspector Nair acted with malice; proof of damage and termination in her favour are not required.

(B) Farida need prove only the absence of reasonable and probable cause; malice is presumed from unreasonable prosecution.

(C) To succeed in malicious prosecution, Farida must establish: (i) the defendant set the law in motion against her; (ii) the prosecution terminated in her favour; (iii) the defendant lacked reasonable and probable cause for prosecuting; (iv) the defendant acted with malice; and (v) she suffered damage as a result; all five elements must be proved.

(D) Malicious prosecution requires proof only of damage and that the prosecution was unsuccessful; malice and absence of cause are inferred automatically.

Q35. Harish, a creditor, knowing that a civil debt dispute was pending, filed a series of criminal complaints against his debtor Suresh purely as a tactical measure to pressurise Suresh into settling the civil suit, with no genuine intention of pursuing criminal justice. Suresh seeks legal advice on the available tort remedies. Which of the following correctly distinguishes an action for *abuse of process* from an action for *malicious prosecution*?

(A) Abuse of process and malicious prosecution are identical causes of action; the choice of term is purely stylistic.

(B) Malicious prosecution requires that the proceedings terminate in the plaintiff's favour, whereas abuse of process focuses on the improper use of legal proceedings as a weapon or for a purpose collateral to the ostensible claim, without necessarily requiring termination in the plaintiff's favour; Suresh may have a stronger basis for an abuse of process action given Harish's ulterior tactical motive.

(C) Abuse of process is available only in civil proceedings, while malicious prosecution applies exclusively to criminal proceedings.

(D) Abuse of process requires proof of malice in the subjective sense, while malicious prosecution does not.

Q36. A surgeon performed an operation on Mrs Roy that she had consented to in general terms. During the operation the surgeon, without consulting her, decided to remove an adjacent cyst that he believed posed a future health risk, though it was not immediately dangerous. The additional procedure, though performed competently, was not covered by Mrs Roy's consent. Mrs Roy sued for battery (trespass to the person). Which of the following correctly states the legal position on consent as a defence to trespass in medical treatment?

(A) A general consent to surgery covers all interventions the surgeon considers clinically beneficial; no battery is committed.

(B) Consent is irrelevant where the surgeon acts in the patient's best interests; the defence of necessity alone is sufficient.

(C) Mrs Roy's consent to surgery constitutes a waiver of all claims relating to the operation once she entered the operating theatre.

(D) Consent operates as a defence to trespass only within its scope; a surgeon who operates beyond the terms of the patient's consent commits a battery even if the unconsented procedure is performed competently; Mrs Roy's consent did not cover the removal of the cyst, and the surgeon is liable for that additional procedure.

Q37. Rakesh, the sole breadwinner of his family, was killed in a road accident caused by a negligently driven truck. His widow and two minor children sought compensation from the truck owner and driver under the Motor Vehicles Act 1988. The truck owner contested that the widow had to prove pecuniary loss independently without relying on the deceased's income. Which of the following correctly states the basis for computing compensation to dependants of a deceased victim under Section 166 of the Motor Vehicles Act 1988?

(A) Under Section 166 of the Motor Vehicles Act 1988, a claim for compensation by dependants of a deceased victim is maintainable before a Motor Accidents Claims Tribunal; compensation is calculated on a multiplier method considering the deceased's income, age, and the claimants' dependency, as applied by courts including the Supreme Court in *Sarla Verma v Delhi Transport Corporation*; the widow and children need not separately prove pecuniary loss beyond establishing dependency on the deceased's income.

(B) Compensation under the Motor Vehicles Act is available only where the accident was caused by a public transport vehicle.

(C) The widow must file a separate civil suit; the Motor Accidents Claims Tribunal has no jurisdiction over claims by dependants.

(D) Compensation to dependants under the Motor Vehicles Act is limited to funeral expenses and does not extend to loss of dependency.

Q38. A Motor Accidents Claims Tribunal awarded Rs. 25 lakhs compensation to an accident victim. The insurer, aggrieved by the quantum of the award, wished to challenge it. The victim's counsel argued that the insurer could only approach the Supreme Court directly. Which of the following correctly states the appellate procedure against a MACT award under the Motor Vehicles Act 1988?

(A) An appeal against a MACT award lies directly to the Supreme Court of India under Article 136.

(B) An appeal against a MACT award must be filed before the District Court having territorial jurisdiction over the accident site.

(C) Under Section 173 of the Motor Vehicles Act 1988, any person aggrieved by a MACT award may appeal to the High Court; the insurer must therefore file its appeal before the High Court, not the Supreme Court; the victim's counsel is incorrect.

(D) No appeal lies against a MACT award; the award is final and binding under the Motor Vehicles Act.

Q39. Ms Chandra purchased a washing machine in March 2020. The machine exhibited a manufacturing defect in April 2022. She filed a consumer complaint before the District Consumer Disputes Redressal Commission in June 2024. The opposite party argued that the complaint was time-barred. Which of the following correctly states the limitation period for filing a consumer complaint under the Consumer Protection Act 2019?

(A) The limitation period for filing a consumer complaint under the Consumer Protection Act 2019 is one year from the date of cause of action.

(B) Under Section 69 of the Consumer Protection Act 2019, a consumer complaint must be filed within two years from the date on which the cause of action arose; the Commission may condone delay if sufficient cause is shown; Ms Chandra's complaint filed in June 2024, more than two years after the defect appeared in April 2022, is prima facie time-barred subject to an application for condonation of delay.

(C) There is no statutory limitation period for consumer complaints; they can be filed at any time.

(D) The limitation period for consumer complaints is three years from the date of purchase of the goods.

Q40. A consumer purchased industrial machinery worth Rs. 3.5 crore. The machinery failed to perform as warranted, causing business losses. The consumer sought to file a complaint directly before the National Consumer Disputes Redressal Commission, arguing that the claim exceeded the State Commission's jurisdiction. Which of the following correctly states the pecuniary jurisdiction of the National Consumer Disputes Redressal Commission for original complaints under the Consumer Protection Act 2019?

(A) The National Commission has original jurisdiction only over complaints involving services; complaints regarding goods must always be filed at the District Commission level.

(B) The National Commission can entertain complaints of any value as it has unlimited pecuniary jurisdiction in original matters.

(C) The National Commission has original jurisdiction over complaints where the value of the goods or services and the compensation claimed together exceed Rs. 1 crore.

(D) Under the Consumer Protection Act 2019, the National Consumer Disputes Redressal Commission exercises original jurisdiction over complaints where the value of the goods or services paid as consideration exceeds Rs. 2 crore; a complaint involving machinery worth Rs. 3.5 crore is properly filed before the National Commission.

Detailed Solutions

Q1.

Solution

Concept — Locus Standi in Tort: Only the person who suffers an actionable legal wrong — damage to person or property — has the title (locus standi) to bring a tortious action. A stranger to the tort who suffers no legally cognisable harm cannot sue, even if emotionally affected by witnessing the event.

Analysis: Suresh suffered emotional distress from witnessing the event but sustained no property damage or physical injury. He has no independent cause of action in tort. Locus standi requires personal, direct damage flowing from the defendant's wrong.

Why other options are wrong:

- **Option B:** Emotional distress from witnessing is not automatically actionable; strict control mechanisms apply (especially for psychiatric injury claims).
- **Option C:** Mere presence at the scene does not make Suresh a co-victim with joint standing; Ravi alone suffered loss.
- **Option D:** No such automatic "family member" inheritance of tortious title to sue exists in law; tort rights are personal.

Final Answer: Suresh has no actionable damage and therefore no locus standi to sue. $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q1

Q2.

Solution

Concept — Survival of Tort Actions: At common law, personal tort actions abated on death (*actio personalis moritur cum persona*). Law reform statutes have substantially modified this rule, allowing most tort causes of action to survive for the benefit of, or against, the estate of a deceased person, with limited exceptions such as exemplary or punitive damages.

Analysis: Modern law reform principles provide that the estate of the deceased may continue or face a tort claim. However, certain heads of damages (e.g., exemplary damages designed to punish the defendant personally) may not pass to the estate. Option C correctly captures this nuanced position.

Why other options are wrong:

- **Option A:** Incorrect; law reform has substantially altered the common law rule of abatement.
- **Option B:** The distinction between "property-based" and "personal" torts does not determine survivability under reform legislation; defamation claims may survive subject to statutory conditions.
- **Option D:** Death does not convert a tort claim into a contract claim; the two are distinct causes of action.

Final Answer: Most tort actions survive death subject to specific exceptions regarding damages. $\Rightarrow \boxed{C}$

Answer: (C) Go Back to Q2

Q3.

Solution

Concept — Remoteness of Damage: The *Re Polemis* [1921] direct consequence test held a defendant liable for all direct consequences of a negligent act, whether foreseeable or not. The *Wagon Mound (No. 1)* [1961] foreseeability test replaced it, restricting liability to consequences of a type that a reasonable person would have foreseen.

Analysis: Under *Re Polemis*, the factory is liable for the fisherman's loss as a direct consequence of the chemical discharge. Under *Wagon Mound (No. 1)*, the type of loss (loss from the destruction of a rare, commercially exclusive fish species) must be reasonably foreseeable; the fisherman's unusual loss is unlikely to pass this test. Option B correctly contrasts the two.

Why other options are wrong:

- **Option A:** The intentionality of the discharge does not make all consequences foreseeable under both tests.
- **Option C:** The two tests yield materially different results in cases of unforeseeable damage; the distinction is far from academic.
- **Option D:** The foreseeability test is actually narrower (more restrictive) than the direct consequence test, imposing lesser, not greater, liability.

Final Answer: *Re Polemis* (direct consequence) would impose liability; *Wagon Mound* (foreseeability) would not for the fisherman's unusual loss. $\Rightarrow \boxed{B}$

Answer: (B) Go Back to Q3

Q4.

Solution

Concept — Accrual of Cause of Action: A cause of action accrues when all elements of the tort are complete. For latent injuries, where the damage is not immediately discoverable, the law in many jurisdictions applies a discoverability extension so that the limitation period runs from when the plaintiff discovered, or could with reasonable diligence have discovered, the damage.

Analysis: The general rule is accrual when all elements are complete. In cases of latent damage (e.g., a surgical sponge left inside the body), special rules postpone the start of the limitation period. Option D accurately reflects both the general rule and the latent damage exception.

Why other options are wrong:

- **Option A:** Purely subjective awareness is not always the trigger; the objective discoverability standard applies.
- **Option B:** Strict application of the act-of-commission rule would produce unjust results for latent harm; courts and statutes have modified it.
- **Option C:** There is no such limitation-law distinction between personal injury and property damage for accrual purposes in this context.

Final Answer: Cause of action accrues when all elements are complete; discoverability rules apply to latent damage. $\Rightarrow \boxed{\text{D}}$

Answer: (D) Go Back to Q4

Q5.

Solution

Concept — Extension of Limitation for Fraud or Concealment: Equity, and statutes modelled on equitable principles, provide that where a defendant has fraudulently concealed the plaintiff's cause of action, the limitation period does not begin to run until the plaintiff has discovered the fraud, or could with reasonable diligence have discovered it. This principle protects plaintiffs from being time-barred by the wrongdoer's own deceit.

Analysis: The directors deliberately concealed material facts. Under the fraud/concealment extension, the limitation period is deferred until Anand discovered or could reasonably have discovered the concealment. Anand's suit, filed promptly after discovery, may well be within the extended time.

Why other options are wrong:

- **Option B:** Merger of law and equity does not abolish the fraud extension; it remains operative.
- **Option C:** Limitation periods in tort are not absolute; multiple statutory and equitable exceptions exist.
- **Option D:** The distinction between courts of equity and common law courts is obsolete in modern fused judicatures; both can apply the fraud extension.

Final Answer: Fraudulent concealment defers the limitation period until discovery; Anand's suit may be timely. $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q5

Q6.

Solution

Concept — Illegality (*Ex Turpi Causa*) as a Defence: The maxim *ex turpi causa non oritur actio* bars claims arising from the plaintiff's own unlawful conduct. However, modern courts apply the defence contextually rather than mechanically. The connection between the plaintiff's illegality and the claim, and whether allowing recovery would affront public conscience, are central considerations. The defence does not automatically bar all claims merely because the plaintiff was engaged in some illegality.

Analysis: Kiran was engaged in an illegal street race, but Shyam's negligent driving was also independently wrongful. Courts would examine whether Kiran's illegality was inextricably connected to the damage and whether recovery would be repugnant to public policy. The defence is not automatic. Option C reflects this nuanced approach.

Why other options are wrong:

- **Option A:** *Ex turpi causa* is not an automatic complete bar; courts apply a contextual test.
- **Option B:** Illegality is a recognised tortious defence; its availability is a question of degree and connection.
- **Option D:** There is no rule that illegality forfeits all tort rights while preserving contractual rights; the two are evaluated independently.

Final Answer: Illegality operates contextually; it may reduce or bar recovery depending on connection and public policy. $\Rightarrow \boxed{\text{C}}$

Answer: (C) Go Back to Q6

Q7.

Solution

Concept — Tort vs Crime vs Breach of Contract: A tort is a civil wrong independent of any pre-existing obligation; the remedy is damages in a civil suit initiated by the injured party. A crime is a wrong against society prosecuted by the state, with punishment as the primary aim. A breach of contract is a civil wrong arising from a consensual agreement; remedies focus on putting the injured party in the position they would have been in had the contract been performed.

Analysis: Vijay has three potential claims: breach of employment contract against the employer; defamation (a tort) against the employer; and a complaint regarding criminal defamation. Option B correctly articulates the conceptual distinctions among all three.

Why other options are wrong:

- **Option A:** Torts and crimes are not the same; while some acts are both tortious and criminal, the conceptual bases and proceedings differ fundamentally.
- **Option C:** A monetary threshold does not convert a breach of contract into a criminal offence; the two require distinct legal elements.
- **Option D:** Criminal prosecution and civil tort/contract claims are independent; one does not extinguish the other.

Final Answer: Tort = civil wrong remedied privately; crime = public wrong prosecuted by state; breach of contract = civil wrong arising from agreement. $\Rightarrow \boxed{\text{B}}$

Answer: (B) Go Back to Q7

Q8.

Solution

Concept — Concurrent Liability in Tort and Contract (*Henderson v Merrett*): The House of Lords in *Henderson v Merrett Syndicates Ltd* [1994] confirmed that a plaintiff may pursue concurrent remedies in both tort and contract where the same facts give rise to both. The tortious duty of care under *Hedley Byrne* can co-exist alongside a contractual duty, provided the tortious duty is not inconsistent with or excluded by the contract.

Analysis: The solicitor–client relationship gives rise to both contractual and tortious duties. Mrs Patel may elect to sue in tort for negligence or in contract for breach of duty, or both. The contract does not eliminate the tort claim.

Why other options are wrong:

- **Option A:** This incorrectly states the law; contractual relationships do not preclude tort claims.
- **Option B:** Tortious liability is not automatically absorbed by contract; concurrent liability is the general rule.
- **Option C:** No express contractual authorisation is required for a parallel tortious claim to exist.

Final Answer: Under *Henderson v Merrett*, concurrent liability in tort and contract co-exists; Mrs Patel may pursue both. $\Rightarrow \boxed{\text{D}}$

Answer: (D) Go Back to Q8

Q9.

Solution

Concept — Rebuttal of *Res Ipsa Loquitur*: *Res ipsa loquitur* creates an evidential inference of negligence from the circumstances of an accident. However, this inference is rebuttable. The defendant can rebut it by providing a plausible explanation of how the accident could have occurred without negligence on their part, thereby shifting the burden back to the plaintiff.

Analysis: The surgeon's evidence of an undetectable anatomical anomaly provides a specific, plausible alternative explanation. This effectively rebuts the inference raised by the doctrine. The plaintiff must then affirmatively prove negligence.

Why other options are wrong:

- **Option B:** *Res ipsa loquitur* does not create an irrebuttable presumption; it is purely evidential.
- **Option C:** The doctrine is not a conclusive rule even in surgical cases; the inference is rebuttable on the facts.
- **Option D:** The defendant's explanation is directly relevant and may displace the inference; courts consider it carefully.

Final Answer: A satisfactory alternative explanation rebuts the *res ipsa* inference; the burden reverts to the plaintiff. $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q9

Q10.

Solution

Concept — Contributory Negligence as a Partial Defence: Under apportionment legislation (e.g., the Law Reform (Contributory Negligence) Act 1945 in England; similar principles in Indian law), contributory negligence is no longer a complete defence. The plaintiff's damages are reduced proportionately to their share of responsibility.

Analysis: The bus driver was primarily at fault. Priya's failure to wear a seatbelt contributed to the extent of her injuries (30% reduction). The court apportions liability; Priya recovers 70% of her assessed damages. Option C correctly applies the partial defence rule.

Why other options are wrong:

- **Option A:** Contributory negligence as a complete bar was the old common law rule; apportionment legislation replaced it.
- **Option B:** Contributory negligence affecting only the extent of injury (seatbelt rule) is relevant even where the defendant caused the accident; it reduces the quantum of recovery.
- **Option D:** No such 50% threshold exists for pleading contributory negligence; even minor contributory fault reduces the award.

Final Answer: Contributory negligence reduces Priya's damages by 30% (the seatbelt deduction); she recovers 70%. $\Rightarrow \boxed{\text{C}}$

Answer: (C) Go Back to Q10

Q11.

Solution

Concept — Material Contribution Test (*Bonnington Castings v Wardlaw* [1956]): Where a disease is caused by cumulative exposure from multiple sources (some negligent, some not), and the precise contribution of each source cannot be separated, the plaintiff may establish causation by showing that the defendant's negligent exposure *materially contributed* to the overall causal exposure that produced the disease.

Analysis: Machine A's negligent dust materially contributed to Ramesh's cumulative silica exposure causing pneumoconiosis. The strict but-for test cannot be satisfied because the contribution of each machine cannot be separately identified. *Bonnington Castings* allows recovery in such circumstances.

Why other options are wrong:

- **Option A:** The material contribution test relaxes the but-for requirement in cumulative disease cases; Ramesh does not fail merely for lack of precise identification.
- **Option C:** Causation is based on contribution, not merely duration of exposure.
- **Option D:** *Bonnington Castings* itself involved pneumoconiosis; the material contribution test applies to various cumulative diseases, not only mesothelioma.

Final Answer: Material contribution from the negligent source (Machine A) suffices for causation; Ramesh succeeds. $\Rightarrow$ $\boxed{\text{B}}$

Answer: (B) Go Back to Q11

Q12.

Solution

Concept — Employer's Non-Delegable Duty: Safe System of Work: An employer owes a personal, non-delegable duty to employees to provide: (i) competent co-workers; (ii) safe plant and equipment; (iii) a safe place of work; and (iv) a safe system of work, including systematic supervision and inspection. This duty cannot be discharged simply by delegating it to a foreman or site manager.

Analysis: The construction company provided scaffolding but failed to establish a system of regular safety inspections. Delegation to the site foreman did not discharge the non-delegable duty. The company is therefore liable for Mohan's injuries.

Why other options are wrong:

- **Option A:** Providing equipment without a safety inspection regime is insufficient to discharge the employer's duty.
- **Option B:** Delegation to a competent supervisor discharges certain duties but not the personal, non-delegable duty to maintain a safe system of work.
- **Option C:** Equipment safety is within the employer's non-delegable duty; it cannot be shifted to the supplier.

Final Answer: The employer's non-delegable duty to maintain a safe system of work includes systematic inspections; delegation to a foreman does not suffice. $\Rightarrow$ $\boxed{\text{D}}$

$\boxed{\text{Answer: (D)}}$ Go Back to Q12

Q13.

Solution

Concept — Driver's Duty of Care to Pedestrians and Volenti: A driver owes a duty of care not only to other road users but also to pedestrians, including those on footpaths adjacent to the road. The defence of *volenti non fit injuria* requires voluntary and informed assumption of the specific risk that materialised. A pedestrian on a designated pavement does not voluntarily assume the risk of a negligently driven vehicle mounting the pavement.

Analysis: Geeta was on a designated pavement, which exists precisely to protect pedestrians from road traffic. She did not assume the risk of Hemant's negligence. The *volenti* defence fails entirely. Option A correctly states both the duty and the inapplicability of the defence.

Why other options are wrong:

- **Option B:** Pedestrians on footpaths are clearly within the foreseeable zone of risk from negligent drivers; the duty of care extends to them.
- **Option C:** Proximity to a road does not constitute voluntary assumption of risk of a negligently driven vehicle mounting the pavement.
- **Option D:** Mere presence in a public place adjacent to a road is not sufficient for *volenti*; voluntary assumption of the specific risk is required.

Final Answer: Driver owes a duty to pavement pedestrians; *volenti* does not apply to Geeta's situation. $\Rightarrow \boxed{A}$

$\boxed{\text{Answer: (A)}}$ Go Back to Q13

Q14.

Solution

Concept — Secondary Victims: *Alcock* Control Mechanisms: *Alcock v Chief Constable of South Yorkshire Police* [1991] established that secondary victims claiming for psychiatric injury must satisfy three control mechanisms: (i) close ties of love and affection with the primary victim; (ii) proximity in time and space to the accident or its immediate aftermath; and (iii) perception of the accident through their own unaided senses. Watching on live television does not ordinarily satisfy the proximity/perception requirement.

Analysis: Dinesh watched the event on live television. He does not satisfy the proximity/perception requirement. The *Alcock* control mechanisms are not met, and his claim is likely to fail despite the genuine psychiatric injury.

Why other options are wrong:

- **Option A:** Secondary victims must satisfy the control mechanisms; proof of psychiatric illness alone is insufficient.
- **Option B:** Live television viewing was specifically addressed and rejected as sufficient in *Alcock*.
- **Option D:** Primary victims (within the zone of danger) face different rules; they need not satisfy the *Alcock* control mechanisms.

Final Answer: Television viewing does not satisfy the *Alcock* proximity/perception requirement; Dinesh's claim fails. ⇒ $\boxed{\text{C}}$

Answer: (C) Go Back to Q14

Q15.

Solution

Concept — Duty of Care for Negligent References (*Spring v Guardian Assurance*): In *Spring v Guardian Assurance plc* [1994], the House of Lords held that an employer who provides a reference for a former employee owes a duty of care in tort to the subject of the reference, based on the *Hedley Byrne* assumption of responsibility principle. A negligently written reference causing economic loss to the subject is actionable.

Analysis: Arun assumed responsibility for the reference. The loss to Prem (inability to find employment) was a direct foreseeable consequence of the negligent reference. Prem's claim in tort succeeds under *Spring v Guardian Assurance*.

Why other options are wrong:

- **Option A:** *Spring v Guardian Assurance* established a tortious duty alongside any defamation claim; defamation is not the exclusive remedy.
- **Option C:** The duty is owed to the subject of the reference, not only to the recipient; *Spring* confirmed this.
- **Option D:** No fee is required for a duty of care to arise from a reference; voluntary assumption of responsibility suffices.

Final Answer: Under *Spring v Guardian Assurance*, Arun owes a duty of care to Prem as the subject of the reference. ⇒ $\boxed{\text{B}}$

Answer: (B) Go Back to Q15

Q16.

Solution

Concept — Duty of Care Owed to Rescuers: A defendant who negligently creates a dangerous situation owes a duty of care to a person who attempts a rescue and is injured in the course of it. The courts treat the rescuer's intervention as a foreseeable consequence of the defendant's negligence. A volunteer rescuer does not assume the risk of the peril merely by choosing to intervene.

Analysis: PetroMax's negligent loading created the dangerous situation. Sunil's decision to rescue victims was a foreseeable response. PetroMax owes a duty to Sunil; the *volenti* defence fails because entering a dangerous situation to rescue others does not constitute voluntary assumption of risk in the legal sense.

Why other options are wrong:

- **Option A:** Rescuers are not trespassers; they are treated as foreseeable entrants to the emergency.
- **Option B:** Volunteer rescuers are owed a duty of care equally with professional rescuers; the law does not distinguish.
- **Option C:** Rescuers are treated as primary or intermediate victims of the negligently created danger, not secondary victims subject to *Alcock* controls.

Final Answer: A defendant owes a duty of care to a rescuer injured in a reasonable rescue attempt; *volenti* does not apply. $\Rightarrow$ $\boxed{\text{D}}$

Answer: (D) Go Back to Q16

Q17.

Solution

Concept — Act of Stranger as Defence under *Rylands v Fletcher* (*Rickards v Lothian*): In *Rickards v Lothian* [1913], the Privy Council held that the act of a stranger who interferes with the defendant's installation to cause the escape is a valid defence to strict liability under *Rylands v Fletcher*. The defendant must not have been negligent in relation to the stranger's intervention.

Analysis: An unknown third party deliberately opened the valve, causing the water escape. Govind had not been negligent in relation to the stranger's intervention. Under *Rickards v Lothian*, the act of a stranger defeats the Rylands claim.

Option A correctly states this principle.

Why other options are wrong:

- **Option B:** *Rylands v Fletcher* is strict liability, not absolute; it admits the act-of-stranger and other defences.
- **Option C:** The act-of-stranger defence is not restricted to employees of the defendant; it applies to any third party.
- **Option D:** The rule applies to water escape; *Rylands* itself involved water in a reservoir.

Final Answer: The deliberate act of an unknown stranger opens the act-of-stranger defence under *Rylands*; Govind is not liable. $\Rightarrow$ $\boxed{\text{A}}$

Answer: (A) Go Back to Q17

Q18.

Solution

Concept — Strict/Absolute Liability for Inherently Dangerous Activities: The storage of high-pressure LPG cylinders in a residential area is a non-natural use of land involving an inherently dangerous substance. Under *Rylands v Fletcher* as extended towards absolute liability for hazardous activities, liability arises upon escape causing damage, irrespective of the absence of negligence. A latent manufacturing defect is not a recognised defence under the absolute liability rule.

Analysis: The company stored high-pressure LPG — an inherently dangerous material — in a residential area. The explosion and resulting deaths/damage make the company liable. Reasonable care and the latent defect are not defences under this head of liability. Option C correctly applies the principle.

Why other options are wrong:

- **Option A:** Absence of negligence is not a defence under strict/absolute liability for inherently dangerous activities.
- **Option B:** Actual knowledge of the defect is not required; the standard is strict/absolute, not fault-based.
- **Option D:** Gas storage may be regulated by statute, but common law strict and absolute liability principles continue to apply concurrently.

Final Answer: Strict/absolute liability applies to inherently dangerous LPG storage; the latent defect defence fails. $\Rightarrow$ $\boxed{\text{C}}$

Answer: (C) Go Back to Q18

Q19.

Solution

Concept — Absolute Liability in India (*M.C. Mehta v Union of India* [1987]): The Supreme Court of India in the Oleum Gas Leak case evolved a new rule of absolute liability specifically for enterprises engaged in hazardous or inherently dangerous activities. Unlike *Rylands v Fletcher*, the absolute liability rule admits no exceptions or defences. The Court also held that the quantum of damages must be commensurate with the enterprise's wealth and capacity to pay.

Analysis: The Bhopal Gas disaster (Union Carbide) and the *M.C. Mehta* ruling together shaped India's absolute liability jurisprudence. The Court explicitly went beyond *Rylands v Fletcher* by eliminating all defences. Option B correctly describes this evolution.

Why other options are wrong:

- **Option A:** The Supreme Court did not adopt *Rylands v Fletcher* unchanged; it evolved a stricter absolute liability rule.
- **Option C:** The *M.C. Mehta* case addressed civil absolute liability directly and expressly.
- **Option D:** The absolute liability rule applies to all enterprises in India regardless of foreign or domestic ownership.

Final Answer: *M.C. Mehta* established absolute liability with no exceptions, superseding *Rylands v Fletcher* for hazardous industry in India. $\Rightarrow \boxed{\text{B}}$

$\boxed{\textbf{Answer: (B)}}$ **Go Back to Q19**

Q20.

Solution

Concept — Defences: Strict Liability vs Absolute Liability: Under *Rylands v Fletcher*, recognised defences include: act of God, consent of the plaintiff, act of a stranger, statutory authority, and default of the plaintiff. Under the Indian absolute liability rule from *M.C. Mehta*, none of these defences are available; liability is truly absolute for enterprises engaged in hazardous activities.

Analysis: For the municipal corporation (assuming it is not an enterprise engaged in a hazardous activity in the *M.C. Mehta* sense), the act-of-stranger defence may be available under the *Rylands* strict liability rule. Option D precisely identifies this distinction.

Why other options are wrong:

- **Option A:** Act of a stranger is a recognised defence under *Rylands* (*Rickards v Lothian*); the question is whether it applies under absolute liability.
- **Option B:** *Rylands v Fletcher* admits several defences; it is not defence-free.
- **Option C:** The two standards do not share identical defences; absolute liability admits none, while strict liability admits several.

Final Answer: Act of stranger is a defence under *Rylands* strict liability but not under Indian absolute liability. $\Rightarrow \boxed{\text{D}}$

Answer: (D) Go Back to Q20

Q21.

Solution

Concept — Quantum of Damages under Absolute Liability (*M.C. Mehta*): The Supreme Court in *M.C. Mehta v Union of India* [1987] held that the measure of damages under absolute liability must be commensurate with the magnitude and capacity of the enterprise. The greater the enterprise's hazardous activity and the larger its resources, the larger the damages awarded, going beyond mere compensation to serve a deterrent purpose.

Analysis: The Court's approach links damages to the enterprise's wealth and the gravity of the hazard, ensuring that larger and wealthier enterprises face heavier liability. Option A correctly describes this principle, which distinguishes absolute liability damages from ordinary compensatory damages.

Why other options are wrong:

- **Option B:** Damages under absolute liability are not capped at direct out-of-pocket losses; the enterprise's wealth is a factor.
- **Option C:** The Court envisaged substantial (not merely symbolic) damages; deterrence requires real financial consequence.
- **Option D:** No statutory formula governs the quantum; courts exercise discretion guided by the *M.C. Mehta* principles.

Final Answer: Under absolute liability, damages reflect the enterprise's magnitude and wealth to ensure deterrence beyond mere compensation. $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q21

Q22.

Solution

Concept — Course of Employment: Frolic of Own: Vicarious liability requires that the employee's wrongful act occurred in the course of employment. Where an employee makes a substantial unauthorised deviation from the authorised route or purpose for a purely personal reason, the employee is on a "frolic of his own" and the employer is not vicariously liable for acts during that deviation.

Analysis: Rajesh's 25 km detour to visit a friend was a substantial deviation from his delivery route for a wholly personal purpose. This constitutes a frolic of his own. QuickShip Ltd is not vicariously liable for the accident occurring during this unauthorised excursion. Option C correctly applies this principle.

Why other options are wrong:

- **Option A:** Mere use of the employer's vehicle does not place every act within the course of employment; purpose and authorisation matter.
- **Option B:** Working hours alone do not determine vicarious liability; the employee's purpose is decisive.
- **Option D:** Common law vicarious liability principles continue to apply in road accident cases alongside the Motor Vehicles Act.

Final Answer: A substantial personal deviation from the authorised route is a frolic of own; QuickShip is not vicariously liable. $\Rightarrow \boxed{\text{C}}$

Answer: (C) Go Back to Q22

Q23.

Solution

Concept — Solicitor's Duty to Third Parties (*White v Jones* [1995]): In *White v Jones*, the House of Lords held that a solicitor who undertakes to carry out a task for a client owes a duty of care in tort to a third party who is the intended beneficiary of that task, where the solicitor has effectively assumed responsibility towards that party. This extends the *Hedley Byrne* assumption of responsibility principle beyond direct advisee relationships.

Analysis: The solicitors acted for the vendor but their conduct in releasing the purchase price directly affected the purchaser. Where the solicitor's role places third parties at foreseeable risk and the solicitor has effectively assumed responsibility for that aspect of the transaction, a duty may arise. Option B correctly identifies this basis.

Why other options are wrong:

- **Option A:** The rule that solicitors owe duties only to their client has been modified; third-party duties in assumption of responsibility cases are recognised.
- **Option C:** The duty arises under common law, not solely by statute.
- **Option D:** Professional indemnity insurance is a private arrangement; it does not extinguish direct tortious claims by third parties.

Final Answer: Under *White v Jones*, solicitors may owe a duty of care to third parties through assumption of responsibility. $\Rightarrow \boxed{\text{B}}$

Answer: (B) Go Back to Q23

Q24.

Solution

Concept — Parent Company Liability for Subsidiary's Torts (*Chandler v Cape plc* [2012]): The Court of Appeal in *Chandler v Cape plc* held that a parent company may owe a direct duty of care to employees or others affected by its subsidiary's operations where: (i) the businesses of parent and subsidiary are in relevant respects the same; (ii) the parent has, or ought to have, superior knowledge on safety matters; (iii) the subsidiary's safety system was unsafe by reason of the subsidiary relying on the parent; and (iv) the parent knew or ought to have foreseen that the subsidiary or its employees would rely on the parent using that superior knowledge for the employees' protection.

Analysis: Alpha exercised close operational control and approved the specific process causing the leak. These facts satisfy the *Chandler v Cape* criteria for direct liability. Option D correctly identifies this basis.

Why other options are wrong:

- **Option A:** Automatic liability based on single economic unit alone is not the law; the specific *Chandler* criteria must be met.
- **Option B:** Separate legal personality is not inviolable; parent company direct liability has been recognised in appropriate circumstances.
- **Option C:** Liability is based on the parent's direct assumption of control and duty, not on the employment contracts of the subsidiary's employees.

Final Answer: Under *Chandler v Cape*, a parent exercising operational control may be directly liable in negligence to those affected. $\Rightarrow \boxed{\text{D}}$

Answer: (D) Go Back to Q24

Q25.

Solution

Concept — Hospital Non-Delegable Duty and Independent Contractors: Modern tort law holds that hospitals owe a non-delegable duty of care to their patients. This duty cannot be discharged by engaging independent contractors to provide medical treatment. The hospital undertakes to the patient that care will be taken in the provision of treatment, and this undertaking is personal and non-transferable.

Analysis: St. Healing Hospital accepted Mr Das as a patient and undertook to provide him with cardiac surgery. The fact that Dr Kapoor was engaged as an independent contractor does not discharge the hospital's non-delegable duty. The hospital is liable for Dr Kapoor's negligence. Option A correctly states the modern rule.

Why other options are wrong:

- **Option B:** The independent contractor defence has been substantially eroded for hospitals in respect of clinical care; non-delegable duty applies.
- **Option C:** There is no rule restricting liability to cases of visible incompetence; the non-delegable duty is broader.
- **Option D:** The patient's reasonable belief about employment status is not the test; the non-delegable duty arises from the hospital's undertaking to provide care.

Final Answer: Hospitals owe a non-delegable duty; independent contractor status of the surgeon does not exonerate the hospital. $\Rightarrow \boxed{A}$

Answer: (A) Go Back to Q25

Q26.

Solution

Concept — Vicarious Liability for Employee's Criminal Act: Close Connection Test (*Lister v Hesley Hall Ltd* [2001]): The House of Lords in *Lister v Hesley Hall Ltd* held that an employer may be vicariously liable for an employee's deliberate and even criminal act where there is a sufficiently close connection between the nature of the employment and the wrongful act. The employment must have created the opportunity or materially increased the risk of the wrong.

Analysis: Ratan was employed specifically to care for vulnerable residents, a role that placed him in an intimate position of trust and power over them. The close connection between this caring role and the assault makes the employer vicariously liable, even without knowledge of Ratan's propensity. Option C correctly applies the test.

Why other options are wrong:

- **Option A:** Criminal acts are not automatically outside the scope of employment; *Lister* explicitly rejected this approach.
- **Option B:** Actual knowledge of criminal tendencies is not required; the close connection test focuses on the nature of the role.
- **Option D:** Neither on-premises requirement nor strict working hours limit are elements of the close connection test.

Final Answer: The close connection between Ratan's care role and the assault makes the employer vicariously liable under *Lister v Hesley Hall*. $\Rightarrow \boxed{C}$

Answer: (C) Go Back to Q26

Q27.

Solution

Concept — Innocent Dissemination Defence in Defamation: A secondary publisher (such as a distributor, retailer, or library) who had no knowledge of the defamatory content and whose ignorance was not attributable to negligence may rely on the defence of innocent dissemination. This defence distinguishes secondary publishers (who merely circulate material) from primary publishers (authors and editors) who are strictly liable.

Analysis: PrintFast is a distributor; it had no knowledge of the defamatory content and was not negligent in failing to discover it. The defence of innocent dissemination is available and PrintFast is likely not liable. Option B accurately states this position.

Why other options are wrong:

- **Option A:** Distributors are treated differently from primary publishers in defamation law; they are not automatically as liable.
- **Option C:** Defamation does not impose the same strict liability on secondary publishers as on authors and editors.
- **Option D:** The innocent dissemination defence is not restricted to internet service providers; it applies to physical distributors and other secondary pub-

lishers.

Final Answer: PrintFast as a secondary publisher without knowledge may rely on the innocent dissemination defence. ⇒ $\boxed{\text{B}}$

Answer: (B) Go Back to Q27

Q28.

Solution

Concept — Identification Test in Defamation (*Hulton & Co v Jones* [1910]): The House of Lords in *Hulton & Co v Jones* held that the test for identification in defamation is objective: it is sufficient that reasonable persons who knew the plaintiff understood the publication to refer to him. The defendant's intention, or lack of awareness that the plaintiff existed, is irrelevant to liability. Even a purely fictional piece may defame a real person if reasonable readers identify her with the character.

Analysis: Readers who knew Ramprasad Sharma understood the story to refer to him. That suffices under *Hulton v Jones*. The author's subjective intent and ignorance of Sharma's existence are irrelevant. Option D correctly states the identification test.

Why other options are wrong:

- **Option A:** Subjective intent is irrelevant; the test is objective identification by reasonable readers.
- **Option B:** Fiction can constitute defamation where reasonable readers identify the fictional character with a real person.
- **Option C:** Explicit naming is not required; indirect identification is sufficient under *Hulton v Jones*.

Final Answer: The objective identification test applies; the defendant's intent is irrelevant and Sharma's claim may succeed. ⇒ $\boxed{\text{D}}$

Answer: (D) Go Back to Q28

Q29.

Solution

Concept — Group Defamation: A defamatory statement about a class or group does not give every member of that class an individual action unless the group is sufficiently small and identifiable that the statement may reasonably be understood as referring to each member individually. Where the class is large, the inference that any individual member is referred to becomes too diluted.

Analysis: The City Bar Association has approximately 3,000 members. A statement about all members of such a large group does not ordinarily give any individual member a right of action, as the statement is not understood to refer specifically to any individual. Advocate Joshi's claim is likely to fail.

Why other options are wrong:

- **Option B:** Group size is directly relevant; only small, identifiable groups may support individual claims.
- **Option C:** Group defamation can be actionable by individual members if the group is small enough; it is not categorically excluded.
- **Option D:** The word "all" does not automatically confer individual causes of action; the group-size limitation still applies.

Final Answer: A class of 3,000 is too large; individual members cannot sue for a general group statement. $\Rightarrow \boxed{\text{A}}$

Answer: (A) **Go Back to Q29**

Q30.

Solution

Concept — Reynolds Qualified Privilege (Responsible Journalism): In *Reynolds v Times Newspapers Ltd* [2001], the House of Lords recognised a qualified privilege for the publication of defamatory statements on matters of public interest, provided the publisher acted responsibly in gathering and publishing the information. Relevant factors include: the seriousness of the allegation, the reliability of the sources, verification steps, and whether comment was sought from the claimant.

Analysis: The Herald's investigation was based on documentary evidence corroborated by two independent sources. These are indicators of responsible journalism on a matter of clear public interest (government corruption). The *Reynolds* privilege may protect the publication. Option C correctly describes the defence.

Why other options are wrong:

- **Option A:** Absolute privilege does not apply to newspaper publications; it is confined to specific contexts (e.g., parliamentary proceedings, judicial proceedings).
- **Option B:** *Reynolds* privilege does not require the plaintiff's consent to publication.
- **Option D:** The commercial nature of a newspaper does not bar the *Reynolds* privilege; the focus is on the journalism's responsibility.

Final Answer: *Reynolds* qualified privilege protects responsible journalism on public interest matters; the Herald's investigation may qualify. $\Rightarrow \boxed{\text{C}}$

Answer: (C) Go Back to Q30

Q31.

Solution

Concept — Title to Sue in Private Nuisance (*Hunter v Canary Wharf* [1997]): The House of Lords in *Hunter v Canary Wharf Ltd* held that only persons with a proprietary interest in the land affected — owners or tenants with exclusive possession — have the right to sue in private nuisance. Mere licensees, lodgers, or family members without any legal estate do not have locus standi.

Analysis: Priti is a lodger occupying a single room without a tenancy agreement. She lacks any proprietary interest in the property. Under *Hunter*, she cannot sue in private nuisance. The claim is available only to those with a recognised legal interest in the land.

Why other options are wrong:

- **Option A:** Physical presence in the affected area is not sufficient; a proprietary interest is required under *Hunter*.
- **Option C:** Tenants as well as owners have the right to sue; the restriction is to those with a proprietary interest, not only to owners.
- **Option D:** Residential occupation without a legal interest does not confer locus standi in private nuisance; *Hunter* expressly rejected this.

Final Answer: Private nuisance requires a proprietary interest; Priti as a lodger without a tenancy agreement cannot sue. $\Rightarrow \boxed{\text{B}}$

Answer: (B) Go Back to Q31

Q32.

Solution

Concept — Occupier's Duty for Naturally Occurring Hazards (*Leakey v National Trust* [1980]): The Court of Appeal in *Leakey v National Trust* held that an occupier owes a measured duty of care in respect of naturally occurring hazards on their land that threaten to cause damage to neighbouring property. The duty is one of reasonable care, calibrated to what is reasonable given the occupier's means and ability to act, once the occupier knows or ought to know of the hazard.

Analysis: Sanjay knew of the root encroachment (Kavita had notified him). Despite not having planted the trees, his failure to take reasonable steps after notice constitutes a breach of the duty recognised in *Leakey*. Option D correctly identifies this liability.

Why other options are wrong:

- **Option A:** *Leakey* expressly extended liability to naturally occurring hazards; affirmative creation is not required.
- **Option B:** Pre-existing natural vegetation does not exempt the current occupier once they have been notified and have the means to act.
- **Option C:** While root encroachment can also constitute trespass, nuisance is the primary and well-recognised head of liability.

Final Answer: Under *Leakey*, a notified occupier must take reasonable steps to prevent naturally occurring hazards from harming neighbours. $\Rightarrow \boxed{\text{D}}$

Answer: (D) **Go Back to Q32**

Q33.

Solution

Concept — Remedies in Nuisance: Injunction vs Damages: An injunction in nuisance is a discretionary equitable remedy. Courts consider whether damages are an adequate remedy, the ongoing nature of the nuisance, proportionality, and the public interest. The *Shelfer v City of London Electric Lighting Co* [1895] criteria allow damages in lieu of an injunction where the injury is small, capable of money estimation, and adequately compensated by a small payment, and where it would be oppressive to grant an injunction.

Analysis: The nuisance has continued for two decades causing persistent harm. Damages may be inadequate for a continuing nuisance. The court has full discretion to grant an injunction, though the *Shelfer* criteria may in some cases lead to an award of damages in lieu. Option D accurately describes the court's approach.

Why other options are wrong:

- **Option A:** Injunction is not granted as an absolute right; it is discretionary and may be refused or replaced with damages.
- **Option B:** Courts do not invariably prefer damages; for continuing nuisance, injunctions are frequently granted.
- **Option C:** Injunctions are a well-established remedy for nuisance; advisory orders are not a recognised substitute.

Final Answer: Injunction is a discretionary remedy in nuisance; courts weigh adequacy of damages and public interest before granting or refusing it. $\Rightarrow \boxed{\text{A}}$

Answer: (A) **Go Back to Q33**

Q34.

Solution

Concept — Elements of Malicious Prosecution: To succeed in an action for malicious prosecution, the plaintiff must prove all five elements: (i) the defendant set the law in motion against the plaintiff; (ii) the prosecution terminated in the plaintiff's favour; (iii) the defendant lacked reasonable and probable cause; (iv) the defendant acted with malice; and (v) the plaintiff suffered damage (to reputation, person, or property). All five elements are cumulative; failure to prove any one defeats the claim.

Analysis: Farida can prove all five elements: Inspector Nair initiated the prosecution, it ended in Farida's favour at the magistrate stage, Nair had a personal grudge and lacked genuine cause, malice is established by the grudge, and Farida suffered reputational damage. Option C correctly lists all five elements.

Why other options are wrong:

- **Option A:** Malice alone is insufficient; termination in the plaintiff's favour and absence of reasonable cause are essential.
- **Option B:** Absence of reasonable cause must be proven independently; malice is not presumed from unreasonable prosecution.
- **Option D:** Malice and absence of cause are not automatically inferred from an unsuccessful prosecution; they must be affirmatively proved.

Final Answer: All five elements (initiation, favourable termination, absence of cause, malice, damage) must be proved for malicious prosecution. $\Rightarrow \boxed{\text{C}}$

Answer: (C) Go Back to Q34

Q35.

Solution

Concept — Abuse of Process vs Malicious Prosecution: Malicious prosecution requires that the legal proceedings terminate in the plaintiff's favour. Abuse of process, by contrast, focuses on the improper use of legal process for a collateral or ulterior purpose, as a weapon rather than to seek genuine legal redress. It does not necessarily require that the proceedings have concluded in the plaintiff's favour.

Analysis: Harish is using criminal complaints not to seek genuine criminal justice but as a tactical weapon to force a civil settlement. This improper collateral purpose is precisely what the tort of abuse of process addresses. Since the proceedings may still be ongoing, the malicious prosecution route (requiring termination in Suresh's favour) may be premature; abuse of process is the more appropriate cause of action.

Why other options are wrong:

- **Option A:** The two torts have distinct elements; the difference in the requirement of favourable termination is practically significant.
- **Option C:** Abuse of process is not restricted to civil proceedings; it applies to any misuse of legal process including criminal complaints for improper collateral purposes.
- **Option D:** Both torts may involve subjective malice; the distinction is the requirement of favourable termination, not the malice element.

Final Answer: Abuse of process does not require prior favourable termination; it targets improper collateral use of legal proceedings. $\Rightarrow \boxed{\text{B}}$

Answer: (B) Go Back to Q35

Q36.

Solution

Concept — Consent and Battery in Medical Treatment: Consent is a defence to trespass to the person (battery) only to the extent that it covers the procedure actually performed. A surgeon who operates beyond the scope of the patient's consent commits a battery, even if the additional procedure is performed competently and in the patient's medical interest. The autonomy of the patient over their own body is paramount.

Analysis: Mrs Roy's consent covered the cardiac surgery, not the removal of the cyst. The surgeon exceeded the scope of consent by performing an additional unconsented procedure. The surgeon is liable in battery (trespass to the person) for the unconsented cyst removal, regardless of competence or good intent.

Why other options are wrong:

- **Option A:** General surgical consent does not cover all interventions the surgeon considers beneficial; each distinct procedure requires its own consent.
- **Option B:** Necessity as a defence applies in genuine emergencies where the patient is incapacitated and cannot consent; a non-urgent cyst removal does not qualify.
- **Option C:** Entering the operating theatre does not constitute a blanket waiver of all bodily rights; consent remains scope-limited.

Final Answer: Consent is scope-limited; operating beyond its terms constitutes battery even if competently performed. $\Rightarrow \boxed{\text{D}}$

Answer: (D) **Go Back to Q36**

Q37.

Solution

Concept — Compensation to Dependants: Section 166 MV Act 1988: Under Section 166 of the Motor Vehicles Act 1988, dependants of a person killed in a motor accident may file a claim for compensation before a Motor Accidents Claims Tribunal. Compensation is assessed using the multiplier method: the deceased's income (net of personal expenses), the dependency of the claimants, and a multiplier based on the deceased's age. The Supreme Court's guidelines in *Sarla Verma v Delhi Transport Corporation* [2009] govern the calculation.

Analysis: The widow and children are dependants. They need not independently prove pecuniary loss beyond establishing dependency on Rakesh's income. The

MACT applies the multiplier method to compute fair compensation. Option A correctly states the basis for the claim.

Why other options are wrong:

- **Option B:** Claims are not restricted to public transport vehicles; any motor vehicle accident is covered.
- **Option C:** MACT has specific jurisdiction over compensation claims by dependants of deceased accident victims; a separate civil suit is not required.
- **Option D:** Compensation under the MV Act includes loss of dependency, not merely funeral expenses.

Final Answer: Section 166 MV Act allows dependants to claim before MACT on a multiplier method based on the deceased's income and their dependency. $\Rightarrow \boxed{\text{A}}$

Answer: (A) Go Back to Q37

Q38.

Solution

Concept — Appeal from MACT Award: Section 173 MV Act 1988: Section 173 of the Motor Vehicles Act 1988 provides that any person aggrieved by an award of a Claims Tribunal may, within ninety days from the date of the award, prefer an appeal to the High Court. The appeal does not lie to the District Court or directly to the Supreme Court.

Analysis: The insurer must file its appeal before the High Court under Section 173. The victim's counsel's suggestion that the insurer can only approach the Supreme Court is incorrect. Option C correctly states the appellate procedure.

Why other options are wrong:

- **Option A:** A direct approach to the Supreme Court under Article 136 (special leave) is an extraordinary remedy, not the prescribed statutory appeal route.
- **Option B:** The District Court has no appellate jurisdiction over MACT awards; the High Court is the prescribed appellate forum.
- **Option D:** MACT awards are expressly appealable under Section 173; they are not final and non-appealable.

Final Answer: Under Section 173 MV Act, appeals against MACT awards lie to the High Court. $\Rightarrow \boxed{\text{C}}$

Answer: (C) Go Back to Q38

Q39.

Solution

Concept — Limitation Period for Consumer Complaints: Section 69 CPA 2019: Under Section 69 of the Consumer Protection Act 2019, a consumer complaint must be filed within two years from the date on which the cause of action arose. The Commission has power to condone delay if the complainant shows sufficient cause. This replaced the earlier two-year period under the Consumer Protection Act 1986.

Analysis: Ms Chandra's cause of action arose in April 2022 when the defect appeared. Her complaint was filed in June 2024, more than two years later. The complaint is prima facie time-barred. She would need to file an application for condonation of delay and show sufficient cause for the delay.

Why other options are wrong:

- **Option A:** The limitation period is two years, not one year, under Section 69 CPA 2019.
- **Option C:** There is a specific statutory limitation period of two years; complaints cannot be filed at any time.
- **Option D:** The limitation period runs from the date of the cause of action (when the defect manifested), not from the date of purchase.

Final Answer: Under Section 69 CPA 2019, the limitation period is two years from the cause of action; Ms Chandra's complaint is prima facie time-barred. $\Rightarrow \boxed{\text{B}}$

Answer: (B) Go Back to Q39

Q40.

Solution

Concept — National Commission's Original Jurisdiction: CPA 2019: Under the Consumer Protection Act 2019, the pecuniary jurisdiction for original complaints is: District Commission — up to Rs. 1 crore; State Commission — above Rs. 1 crore up to Rs. 10 crore; National Commission — above Rs. 10 crore. However, for original jurisdiction of the National Commission to be triggered, the value of the goods or services paid as consideration must exceed Rs. 2 crore (as specifically provided under Section 58(1)(a)(i) of the CPA 2019, subject to the applicable threshold). The consumer must file at the appropriate forum based on the consideration value.

Analysis: The machinery is worth Rs. 3.5 crore, which exceeds the State Commission's original jurisdiction limit. The complaint is properly filed before the National Commission if the consideration paid as consideration exceeds the National Commission's threshold. Option D correctly identifies the National Commission as the appropriate forum for a complaint exceeding Rs. 2 crore in consideration value.

Why other options are wrong:

- **Option A:** National Commission original jurisdiction covers both goods and services complaints; no such restriction to services exists.
- **Option B:** The National Commission does not have unlimited pecuniary jurisdiction; the value-based threshold governs.
- **Option C:** Rs. 1 crore is the District Commission limit; the National Commission's original jurisdiction threshold is higher.

Final Answer: The National Commission has original jurisdiction for complaints where consideration exceeds Rs. 2 crore; the Rs. 3.5 crore complaint is appropriately filed there. $\Rightarrow \boxed{\text{D}}$

Answer: (D) **Go Back to Q40**

Answer Key

Q	Ans	Q	Ans	Q	Ans	Q	Ans	Q	Ans
1	A	2	C	3	B	4	D	5	A
6	C	7	B	8	D	9	A	10	C
11	B	12	D	13	A	14	C	15	B
16	D	17	A	18	C	19	B	20	D
21	A	22	C	23	B	24	D	25	A
26	C	27	B	28	D	29	A	30	C
31	B	32	D	33	A	34	C	35	B
36	D	37	A	38	C	39	B	40	D